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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------|------------------|
| 10/608,748  | 06/27/2003  | Rickey L. Morgan     | HES 2003-IP-010139U1  | 7194             |
| 28857   | 7590        | 08/04/2004           | EXAMINER              |                  |
| CRAIG W. RODDY<br>HALLIBURTON ENERGY SERVICES<br>P.O. BOX 1431<br>DUNCAN, OK 73536-0440 |             |                      | WALKER, ZAKIYA NICOLE |                  |
|   |             |                      | ART UNIT              | PAPER NUMBER     |
|   |             |                      | 3672                  |                  |

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/608,748

Applicant(s)

MORGAN ET AL.

Examiner

Zakiya N. Walker

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-174 is/are pending in the application.
- 4a) Of the above claim(s) 91-174 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☒ Claim(s) 3, 4, 10-12, 20-22, 26-32, 37, 38, 41, 42, 45, 48, 49, 55-57, 65-67, 71-77, 81-83, 86, 87, and 90 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 06272003
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_

Continuation of Disposition of Claims: Claims rejected are 1,2,5-9,13-19,23-25,33-35,39,40,43,44,46,47,50-54,58-64,68-70,78-80,84,85,88 and 89.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-90, drawn to a method of cementing, classified in class 166, subclass 292.
- II. Claims 91-174, drawn to a cement composition, classified in class 106, subclass 608.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially different process.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

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5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
6. During a telephone conversation with Craig W. Roddy on 7/26/04 a provisional election was made without traverse to prosecute the invention of group I, claims 1-90. Affirmation of this election must be made by applicant in replying to this Office action. Claims 91-174 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Specification***

8. The abstract of the disclosure is objected to because the term "the present invention" is stated in line 1. Correction is required. See MPEP § 608.01(b).
9. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Objections***

10. Claims 38 are 83 are objected to because of the following informalities: lines 6 and 8 of both claims recite "the dispersing agent" and "the zeolite", which lack antecedent basis. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 2, 5-9, 13-19, 23-25, 33-35, 39, 40, 43, 44, 46, 47, 50-54, 58-64, 68-70, 78-80, 84, 85, 88, and 89 are rejected under 35 U.S.C. 102(e) as being anticipated by Chatterji et al.'867.

Chatterji et al.'867 discloses a method of cementing in a subterranean formation comprising the steps of: providing a cement composition comprising a hydraulic cement,

water, and a fluid loss control additive, the fluid loss control additive comprising: an acrylamide copolymer derivative', and a hydratable polymer; placing the cement composition into the subterranean formation; and permitting the cement composition to set therein. With respect to dependent claims 2, 5-9, 13-19, 23-25, 33-35, the reference teaches the limitations as claimed. With respect to claim 39, the reference teaches a method of cementing in a subterranean formation comprising the steps of: providing a cement composition comprising a hydraulic cement, water, and a fluid loss control additive, the fluid loss control additive comprising: an acrylamide copolymer derivative; and a dispersant; placing the cement composition into the subterranean formation; and permitting the cement composition to set therein. With respect to dependent claims 40, 43, 44, the reference teaches the limitations as claimed. With respect to claim 46, the reference teaches a method of reducing the fluid loss from a cement composition,' comprising the step of adding to the cement composition a fluid loss control additive comprising: an acrylamide copolymer derivative; and a hydratable polymer. With respect to dependent claims 47, 50-54, 58-64, 68-70, 78-80, the reference teaches the limitations as claimed. With respect to claim 84, the reference teaches a method of reducing the fluid loss from a cement composition, comprising the step of adding to the cement composition a fluid loss control additive comprising: an acrylamide copolymer derivative; and a dispersant. With respect to dependent claims 85, 88, and 89, the reference teaches the limitations as claimed.

13. Claims 39, 40, 43, 44, 84, 85, 88, and 89 are rejected under 35 U.S.C. 102(b) as being anticipated by Crema et al.'935 or EP'489.

Crema et al.'935 and EP'489 disclose methods that each include a method of cementing in a subterranean formation comprising the steps of: providing a cement composition comprising a hydraulic cement, water, and a fluid loss control additive, the fluid loss control additive comprising: an acrylamide copolymer derivative; and a dispersant; placing the cement composition into the subterranean formation; and permitting the cement composition to set therein. With respect to dependent claims 40, 43, 44, the reference teaches the limitations as claimed. With respect to claim 84, the reference teaches a method of reducing the fluid loss from a cement composition, comprising the step of adding to the cement composition a fluid loss control additive comprising: an acrylamide copolymer derivative; and a dispersant. With respect to dependent claims 85, 88, and 89, the reference teaches the limitations as claimed.

***Allowable Subject Matter***

14. Claims 3, 4, 10-12, 20-22, 26-32, 37, 38, 41, 42, 45, 48, 49, 55-57, 65-67, 71-77, 81-83, 86, 87, and 90 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Further, the objection to claims 38 and 83 in paragraph 10 above must be addressed before made allowable.



**Conclusion**

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zakiya N. Walker whose telephone number is (703) 305-0302. The examiner can normally be reached on Tuesday-Friday, 6:30 AM-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (703) 308-2151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Zakiya N. Walker  
Primary Examiner  
Art Unit 3672

zw

July 27, 2004